

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2080 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DAKORE KHODADHOR PANJRAPOLE TRUST

Versus

STATE OF GUJARAT

Appearance:

MR AK CLERK for Petitioner

MR BY MANKAD, AGP FOR M/S PATEL ADVOCATES for
Respondents

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 18/08/2000

ORAL JUDGEMENT

1. This petition under Article 226 of Constitution
of India is preferred by the petitioner Dakor Khodadhor
Panjarapole for quashing and setting aside the order of

Deputy Secretary, Revenue Department dated 5.12.1991 quashing and setting aside the order dated 30.10.1981 passed by the Deputy Collector, Anand granting Exemption Certificate under sec.3(1)(d) and 3(1)(ddd) of the Gujarat Agricultural Lands Ceiling Act, 1960 (hereinafter referred to as the "Act") as prayed for by the petitioner vide application dated 14.6.1976, on the ground that the same is arbitrary, unreasonable, irrational and is based on some extraneous circumstances.

2. The main grievance of the petitioner is that respondent no.2 Deputy Secretary, Revenue Department, State of Gujarat, who has quashed and set aside the order dated 30.10.1981 passed by the Deputy Collector who is quasi-judicial authority under the provisions of the Act, had no authority or jurisdiction whatsoever to deal with judicial order passed by the competent authority under the provisions of the Act. Of course, respondent no.2 has remanded the matter to the same authority, but the grievance of the petitioner is that respondent no.2 cannot, under the law, appreciate the findings recorded by a judicial functionary appointed or authorised under a Statute. It is also submitted on behalf of the petitioner that it was open for the respondent State to prefer an appeal before the Gujarat Revenue Tribunal if respondent State has any grievance against the finding recorded by the Deputy Collector, Anand in favour of the petitioner.

3. Mr.A.K.Clerk, learned counsel appearing for the petitioner has taken me through entire set of facts and has submitted that the finding of the Deputy Collector recorded on 30.10.1981 was in accordance with law and as there was no chance of success had this matter been taken before the appropriate forum namely Gujarat Revenue Tribunal, the said order was taken under revision. That Respondent no.2 has passed the impugned order ignoring entire scheme of the Act and State has tried to nullify the legal effect of the order passed by the competent authority under the Statute. That petitioner could have appeared before the Deputy Collector, but since the act of interfering with the finding recorded by the judicial authority itself is illegal and unconstitutional, the petitioner is compelled to approach this Court by invoking jurisdiction vested under Article 226 of the Constitution of India.

4. I have heard learned counsel Mr. A.K.Clerk for the petitioner and learned AGP Mr. Mankad for the State. It has been submitted by learned counsel Mr. Clerk that similar petition being Spl.C.A.No. 3265 of 1991 is

disposed of today involving the identical question of law and similar set of facts, relying on the decision of the Bombay High Court in the case of Purshottam Nathu Mali v/s The Secretary of Bombay, in Civil Application No.274/51 (Coram : Chhagla, C.J.). He has, therefore, submitted that this petition is also covered by the decision of the Bombay High Court in Civil Application No. 274/51 as well as decision rendered by this Court in Spl.C.A. No. 3265/91 today itself i.e. 18.8.2000. Learned AGP Mr. Mankad for the respondents has fairly submitted that the case of present petition is covered by the abovesaid two decisions and the same also can be disposed of accordingly. Under the circumstances, I do not see any reason to set out facts of the present case and give reasons for allowing this petition as the petition is disposed of mainly on legal point which is covered by aforesaid two decisions.

5. For the reasons stated above and treating the reasons given in Spl.C.A. No.3265/91 dated 18.8.2000 as part of reasons of this judgment, petition is allowed. The impugned order dated 5.12.1991 passed by Deputy Secretary, Revenue Department, State of Gujarat at Annex.D is hereby quashed and set aside treating the same as non-est. Consequently, the order dated 30.10.1981 passed by the Deputy Collector, Anand is hereby restored and confirmed and, therefore, Exemption Certificate issued on the strength of the aforesaid order is also hereby declared to be legal and valid. Rule is made absolute. Interim relief, if any, is confirmed. This is a case wherein petitioner could have been awarded costs, but as the petitioner does not press for costs, no costs is awarded.

18.8.20000 [C.K. BUCH, J]

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